

# Advance Beneficiary Notice of Noncoverage (ABN)

Presenters:

Charlayne Van-Skinner, JD

LCDR Evelyn Blaemire, CRNP

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# Purpose & Goals

- To familiarize participants with the ABN's new features and requirements;
- To give participants an opportunity to test their knowledge about ABN use; and
- To give participants an opportunity to ask questions about ABNs.

# Expanded Scope of the Revised ABN

Revised CMS-approved written notice:

- Issued by providers, practitioners, suppliers, and laboratories
- For Medicare Part A (hospice and religious non-medical healthcare institutions only) and Part B items and services
- Given to Fee-For-Service (FFS) beneficiaries
- Satisfies both mandatory and voluntary notice functions

# Exclusions from Use

NOT used for items or services provided under:

- The Medicare Advantage (MA) program
- The Medicare Prescription Drug Program (Part D)

# Mandatory Use

Statutory provisions requiring delivery of the ABN:

- Not reasonable and necessary (§1862(a)(1) of the Act)
- Violation of the prohibition on unsolicited telephone contacts (§1834(a)(17)(B) of the Act)
- Medical equipment and supplies supplier number requirements not met (§1834(j)(1) of the Act)

# Mandatory Use

(continued)

Statutory provisions requiring delivery of the ABN:

- Medical equipment and/or supplies denied in advance (§1834(a)(15) of the Act)
- Custodial care (§1862(a)(9) of the Act)
- Hospice patient who is not terminally ill (§1879(g)(2) of the Act)

# Mandatory Use Case Study

Mr. Lombardo has Original Medicare Part B coverage and has a history of chronic low back pain without subluxation (a displacement or misalignment of a joint or body part). He sees his chiropractor for spinal manipulation once every 2 months for maintenance therapy.

Medicare covers manipulation of the spine if medically necessary to correct a subluxation when provided by chiropractors or other qualified providers.

# Mandatory Use Case Study

1. Should the chiropractic office issue an ABN to Mr. Lombardo before he receives his spinal manipulation? Why?
  - a. Yes, the ABN is mandatory in this case.
  - b. No, he already knows that Medicare will not pay for this treatment.
  - c. Only if Mr. Lombardo requests an ABN since beneficiaries are responsible for requesting the notice.
  - d. No, spinal manipulation is covered by Medicare.



# Mandatory Use Case Study

2. Since Mr. Lombardo sees the same chiropractor every 2 months for spinal manipulation of the same area of the spine, how often will he be issued an ABN?
  - a. Never. It is not required in his case.
  - b. Once every 2 months before receiving each treatment.
  - c. Once, before his first spinal manipulation, then, it is no longer required.
  - d. Once, before his first spinal manipulation, and every year as long as there is no change in the service provided.

# Voluntary Use

Can be issued voluntarily in place of the Notice of Exclusion from Medicare Benefits (NEMB) for care that is never covered such as:

- Care that is explicitly excluded from coverage under §1862 of the Social Security Act
- Care that fails to meet a technical benefit requirement (i.e., lacks required certification) as defined in 1861 of the Social Security Act

# Voluntary Use Case Study

Mrs. Runner has been a Medicare beneficiary for 6 years. She is at her primary care physician's office for her yearly physical. Her family insists that she obtain yearly physicals since she continues to run marathons competitively. She knows that yearly physicals are not covered by Medicare, and her children routinely pay for this yearly office visit.

During her exam, her doctor finds a newly detected abnormal heart rhythm and orders an in-office EKG. Medicare usually pays for an EKG when it is ordered for a diagnosis such as hers.

# Voluntary Use Case Study

1. Prior to Mrs. Runner receiving her physical and EKG, her doctor's office should issue:
  - a. A voluntary ABN for the physical examination only or no notice
  - b. A voluntary ABN for the physical examination and a mandatory ABN for the EKG
  - c. A mandatory ABN for the physical examination and a voluntary ABN for the EKG
  - d. A voluntary ABN for the physical examination and the EKG
  - e. No notice because her children pay her medical bills

# Voluntary Use Case Study

2. Because Mrs. Runner has a newly acquired abnormal heart rhythm, her doctor orders a TSH (thyroid blood test) under the diagnosis code cardiac dysrhythmia, unspecified. Medicare does cover TSH testing for this diagnosis. The physician's office should issue:
- a. Nothing. It is the lab's responsibility to issue the ABN.
  - b. A voluntary ABN since this test is being ordered because of the results of her physical.
  - c. Nothing. No ABN is needed since this will be covered by Medicare.

# Replaced Notices

The revised ABN replaces the following notices:

- ABN-G (CMS-R-131-G)
- ABN-L (CMS-R-131-L)
- NEMB (CMS-20007)

# Notice Revisions

1. New Name/Format
2. Health Insurance Claim Numbers (HICN) no longer allowed
3. Cost Estimate Required
4. New Option 2 – choice to pay out of pocket

*Note: Other Medicare liability notices have similar wording and appearance.*

# EMR/Electronic Signature

- The beneficiary or his/her representative must select an option and sign the notice
- A digital signature is not permitted
- The signed form can be scanned for retention in the patient's electronic medical record (EMR)



# Representatives

- Notifiers are responsible for determining who may act as a beneficiary's representative under applicable State or other law
- To appoint a representative the beneficiary may use Form CMS-1696 (or a conforming written instrument, such as a Power of Attorney)
- Documentation appointing a representative should be filed with an appeal request.

*See IOM 100-04, Medicare Claims Processing Manual, Chapter 29, § 270 for instructions related to the use of Form CMS-1696 and the appointment of representatives.*

# Beneficiary Refusal to Sign

- Annotate the original copy of the ABN indicating the refusal to sign
- Consider not furnishing the item/service, unless the consequences are such that this is not an option
- Provide a copy of the annotated ABN to the beneficiary, and keep the original version of the annotated notice in the patient's file

# Modifications

- Modifications/pre-printed information on the ABN are permitted if they are consistent with the manual instructions
- Modifications beyond what is allowed by the instructions must be approved by the appropriate CMS regional office or CMS Central Office

# Multiple Entities

- Separate ABNs are not necessary when multiple entities (i.e., ordering physician/lab) are involved in rendering care
- Either party can be the notifier when:
  - There are separate “ordering” and “rendering” providers
  - One provider delivers the “technical” and the other the “professional” component of the same service
  - The entity that obtains the signature on the ABN is different from the entity that bills for services

# Multiple Entities

(continued)

- The billing entity will always be held responsible for effective delivery
- When the notifier is not the billing entity, the notifier:
  - Must know how to direct the beneficiary to the billing entity for questions
  - Should annotate the Additional Information section of the ABN with this contact information
  - May enter the name of more than one entity in the header of the notice

# Test Your ABN Knowledge

## Case Study

Ms. Sugarbaker is a diabetic who recently underwent a right below the knee amputation (R BKA). At her last visit with her primary care provider, her blood sugar was well controlled. Her nurse practitioner ordered HgbA1C lab blood testing in 3 months, physical therapy (PT) 3 times weekly for 2 weeks for continued ambulation training status post (s/p) R BKA, and a bedside commode for patient comfort.

*Note: Medicare covers HgbA1C testing in controlled diabetics every 3 months and physical therapy s/p R BKA. Medicare does not cover durable medical equipment (DME) ordered for patient comfort.*

# Test Your ABN Knowledge

## Case Study

1. Ms. Sugarbaker tends to be forgetful and can't remember when she is supposed to go to the lab for her Hgb A1C blood test. Her daughter takes her immediately upon finding a lab slip in Ms. Sugarbaker's purse. Only 3 weeks have lapsed since her last HgbA1C and the lab issues a mandatory ABN. Ms. Sugarbaker refuses to sign the ABN because "Medicare always pays for my sugar tests." How should the lab proceed?
  - a. Draw the blood for HgbA1C without a signed ABN.
  - b. Annotate the ABN with information about the beneficiary refusing to sign the notice, and give the patient a copy. Explain to Ms. Sugarbaker that her last HgbA1C on record was 3 weeks ago and that she should contact her provider's office regarding this occurrence.
  - c. Do nothing. Allow the patient to exercise this right.
  - d. Call the provider's office to see if this test is really necessary and then force the patient to sign the ABN.

# Test Your ABN Knowledge

## Case Study

2. The DME supplier issues an ABN to Ms. Sugarbaker before providing her with the bedside commode. Based on THIS case, is issuance of the ABN voluntary or mandatory?
- a. Voluntary
  - b. Mandatory



# Test Your ABN Knowledge

## Case Study

3. Ms. Sugarbaker has progressed in reaching her goals for ambulation in physical therapy (PT), and her order is decreased to 2 visits per week. She wants to continue 3 visits per week and is willing to pay out of pocket for the extra PT visit. What should happen when Ms. Sugarbaker arranges for this request for additional therapy?
- a. A voluntary ABN is issued.
  - b. A mandatory ABN is issued.
  - c. No ABN is needed.

# Test Your ABN Knowledge

## Case Study

4. The physical therapy practice uses electronic medical records (EMR) for Ms. Sugarbaker. Which of the following statements is true?
- a. The ABN can be issued and stored electronically.
  - b. The ABN must be issued as a hard copy, but can then be stored electronically in the patient's EMR.
  - c. The ABN cannot be converted into an electronic document.
  - d. The ABN can be issued electronically, but the beneficiary must receive a printed hard copy for her records.

# References

Reference links:

<http://www.cms.gov/Manuals/IOM/list.asp>

[http://www.cms.gov/BNI/02\\_ABN.asp#TopOfPage](http://www.cms.gov/BNI/02_ABN.asp#TopOfPage)

# Conclusion

- Questions?
- Email questions to: RevisedABN\_ODF@cms.gov
- Visit <http://www.cms-cpcevents.org/>